



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

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U.S. Department of Transportation
Docket Management System
400 7th Street, SW
Room PL 401
Washington, DC 20591-0001

PETITION FOR RULEMAKING

The Aircraft Owners and Pilots Association hereby petitions for rulemaking to amend Sections 61.3(a) and 61.3(l) of the Federal Aviation Regulations to require a pilot carry, and present for appropriate inspection, a form of photographic identification acceptable to the Administrator of the Federal Aviation Administration. This petition is made pursuant to Section 11.61 et seq. of the Federal Aviation Regulations. Specifically, FAR 61.3(a) should be amended to read a person may not act as a pilot of a civil aircraft of U.S. registry, unless that person has, in addition to the current requirements of FAR 61.3(a), a form of photographic identification acceptable to the Administrator, in that person's physical possession or readily accessible in the aircraft while exercising the privileges of his or her pilot certificate or special purpose pilot authorization. FAR 61.3(l) should be amended to read that each person required to have a form of photographic identification by FAR 61.3(a), must present it for inspection upon request from the Administrator or any Federal, State, or local law enforcement officer. We request this change be implemented by a direct final rule.

INTEREST OF THE PETITIONER

The petitioner, Aircraft Owners and Pilots Association, is a nationwide, non-profit membership association of more than 380,000 individual aircraft owners and pilots. AOPA estimates its members comprise almost two-thirds of the active civil pilots in the United States, and that its members own more than three quarters of the general aviation civil aircraft registered in this country. Its members have been particularly and substantially affected by many of the security procedures adopted by the Administrator as a result of the terrorist attacks of September 11, 2001. This includes special air traffic rules, temporary flight restrictions and ground security requirements. AOPA's members will be affected by other security procedures currently being contemplated by the Administrator and other Government agencies.

An important issue raised by AOPA and several other general aviation organizations in a series of recommendations on general aviation security made in early December was the use of picture identification to verify the identity of pilots. The need for picture identification for pilots has been an important element in many of the security discussions on general aviation.

In an effort to positively address this security concern, that is, the identification of civil pilots, AOPA offers this practical and effective identification procedures proposal.

BACKGROUND

The new Aviation and Transportation Security Act, Public Law 107-71 enacted November 19, 2001, suggests consideration of a requirement for a photo ID pilot certificate. In relevant part, Section 109 of the Security Act provides that "the Under Secretary of Transportation for Security may take the following actions ... (6) In consultation with the Administrator of the Federal Aviation Administration, consider whether to require all pilot licenses to incorporate a photograph of the license holder and appropriate biometric imprints." The Under Secretary is required to annually report to Congress on the progress in evaluating and taking such actions, the first report being due this May 19th.

In addition, Section 129 of the Security Act amends existing legislation, 49 USC 44703(g), to add "combating acts of terrorism" as a purpose for a modification to the existing FAA airman certification system to "ensure positive and verifiable identification of each individual applying for and holding a certificate."

The FAA proposed modifications to the system required by the earlier version of Section 44703(g), including a new photo ID certificate for pilots, are outstanding and have not yet been acted upon. 48 Fed. Reg. 9270 (1990).

To meet the intent of this legislative background, AOPA recommends consideration of an alternative to a requirement for a photo ID pilot certificate, an alternative providing an equivalent level of security that can be quickly implemented.

The FAA can require in addition to the pilot certificate, that a person must have "in that person's physical possession or readily accessible in the aircraft when exercising the privileges of that pilot certificate," the pilot must also have a photo identification acceptable to the Administrator. The photo identification in most instances would be a valid state issued driver's license, although it could also be a government ID card, passport, and other form of identification the Administrator finds acceptable for security purposes.

DISCUSSION

The above statutory material could be interpreted as requiring an immediate complete new system or process producing a pilot certificate with a photograph of the holder attached. Rather, the security objectives of this legislation can be expeditiously met by requiring a pilot to have, and be able to produce, acceptable photo identification in addition to the present form of pilot certificate required when exercising the privileges of the pilot certificate.

It is also consistent with existing practice for identifying individuals applying for a pilot certificate. Currently, all applicants for pilot certificates are required to produce positive identification at the time of application to a designated examiner or FAA inspector. FAA AC No: 61-65D, Paragraph 7. Acceptable types of identification include driver's licenses, government ID cards, passports, military identification cards, and other forms of identification. However, pilots are not required to carry this photo identification while piloting an aircraft.

The outstanding proposed rulemaking, referred to above, proposes a new form of pilot certificate. As proposed, the new photo ID certificate would be issued based on a presentation by the pilot applicant of the positive identification (as is currently required) plus a recent passport-type photograph reproduced on the certificate being issued. If the presentation of an acceptable form of identification is considered adequate for the issuance of the new photo ID certificate, is not the same objective achieved by requiring a pilot to carry the same form of identification?

FAR 61.3(a) now states a person may not act as a pilot flight crewmember in command (or in any other capacity as a required pilot) of a civil aircraft of U.S. registry, unless the person has a valid pilot certificate or special purpose pilot authorization in their physical possession or readily accessible in the aircraft when exercising the privileges of the pilot certificate or authorization. FAR 61.3(c) additionally requires a current and appropriate medical certificate. This rule can be amended to also require the possession of an acceptable form of identification, the same form as is currently required for the issuance of a non-photo certificate.

Based on experience with the current identification procedure for the issuance of airman certificates, virtually all U.S. citizen and resident applicants comply by presentation of a valid driver's license. AOPA is reliably informed that all fifty States and the District of Columbia issue a photo ID drivers license, and most will also issue State photo identification, without driver license privileges, using the same identification requirements.

FAR 11.71 requires a petition for rulemaking explain why the proposed action would be in the public interest. Please consider these advantages of the AOPA proposal:

First and foremost, this proposal directly addresses the national security concern identified by the Congress and the aviation industry, specifically, the positive photo identification of pilots of U.S. registered aircraft operating in our national airspace system, and it does so in an expeditious and cost-effective manner.

A new form of a photo-ID pilot certificate would require the re-certification of the whole pilot population of the United States. The number of pilot certificates issued to date numbers in excess of three million, not counting all of the certificates issued in the 1940s and 1930s. The number of pilots holding active medical certificates number approximately 630,000. The cost to the government of such a re-certification would be great, and will require close analysis, including the cost/benefit of such action. The AOPA alternative can be quickly implemented, is not costly to either the FAA or the pilot community and allows the FAA to appropriately evaluate the cost and administrative burden to the pilot population of the United States and the security benefits of a pilot certificate with a picture.

In addition, a re-certification system will necessarily miss some pilots. It would cause confusion and concern in the pilot population. The AOPA recommendation would not miss anyone, but would merely require the carriage of a picture identification as a practical matter most pilots carry anyway (usually a driver's license).

The current form of pilot certificate, other than a student certificate, is issued without an expiration date. See, FAR 61.19(c). The proposed system would require renewal, if for no other reason than to update the photograph on the FAA pilot certificate. The pilot certification process would be complicated by a renewal requirement. The only renewal required under the AOPA proposal would be the routine renewal of a driver's license or other form of identification.

While it is technically not part of this AOPA recommendation, the FAA rulemaking could be made to apply to persons operating aircraft other than certificated pilots, including pilots operating under other forms of FAA pilot authorizations, and including pilots of ultralight vehicles. Operators of ultralight vehicles are not required to have airman certificates. See, FAR 103.7(b). The FAA re-certification effort would catch only certificated pilots.

TIMING

The AOPA recommendation could be immediately implemented through a direct final rule without significant cost or administrative burden to the pilot population, and with only minimal administrative burden to the FAA to modify one relatively simple regulation. Certainly, it could be implemented much sooner than a hastily ordered re-certification effort. It is indisputable that a significant amount of time would be necessary for an adequate consideration of a new system for a photo ID pilot certificate.

OTHER INFORMATION

To the extent this petition has not already done so, AOPA stands ready to respond to a request under FAR 11.71(b) to further address the costs and benefits to society and identifiable groups of this proposed action; the regulatory burden on small businesses, small organizations, small governmental jurisdictions, and Indian tribes; the record keeping and reporting burdens; and natural and social environmental effects.

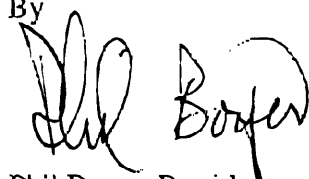
FINAL OR DIRECT FINAL RULE

The FAA may consider amending the rule as requested in this petition by issuing a final rule without first requesting public comments, or by issuing a direct final rule. Considering such rulemaking actions taken by the FAA in its post-September 11 security rulemaking, the FAA could well find a notice of proposed rulemaking is impractical, unnecessary, or contrary to the public interest, or a notice is unnecessary because no adverse comment is expected. AOPA requests the Agency implement the request of this petition through a direct final rule.

Respectfully submitted,

Aircraft Owners and Pilots Association

By

A handwritten signature in black ink, appearing to read "Phil Boyer". The signature is stylized with a large, looped "P" and a cursive "Boyer".

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